Supreme Court, U. S.
FILED
FEB 4 1976
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

Nos. 75-964 and 75-965

SENECA-CAYUGA TRIBE OF OKLAHOMA, *et al.*,
Petitioners,

v.

THE UNITED STATES OF AMERICA,
Respondent.

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS IN NOS. 75-964 AND 75-965

ROBERT C. BELL, JR.
528 Main Street
New Canaan, Conn. 06840

Attorney for
Hannahville Indian Community,
and other Eastern Potawatomi
Groups in Opposition

ABS DUPLICATORS, INC.—1732 Eye Street, N.W.—Washington, D.C.—298-6537

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

Nos. 75-964 and 75-965

SENECA-CAYUGA TRIBE OF OKLAHOMA, *et al.*,
Petitioners,

v.

THE UNITED STATES OF AMERICA,
Respondent.

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS IN NOS. 75-964 AND 75-965

THE QUESTION

Did the Seneca Cayuga Tribe of Oklahoma or its antecedents, which were at one time part of the Six Nations of what is now New York State, have any interest, recognized or possessory, in any portion of (a) the lands ceded by the Treaty of July 4, 1805 at Fort Industry (7 Stat. 87) (Royce Areas 53 and 54 in northern Ohio westerly and southerly of Cleveland)(Petition No. 75-964), or (b) lands ceded by

the Treaty of September 29, 1817 at the Rapids of the Miami of Lake Erie (7 Stat. 160) (Royce Areas 87 and 88 in northwestern Ohio, southern Michigan and eastern Indiana southerly and westerly of Toledo) (Petition No. 75-965)?

STATEMENT OF THE CASE

The issue is a complex question of fact and not a matter of law. As stated by the United States Court of Claims in both Appeal No. 3-74 and 4-74, both dated May 30, 1975:

> ". . . . the findings as made support the decision and order of the Commission and the same are supported by substantial evidence. We conclude further that there is no error of law in the decisions. . . ."

The question or questions presented here were substantively decided December 8, 1975, when petitions for writs of certiorari were denied by the Supreme Court in Nos. 75-389 and 75-438 and 75-458. Such petitions involved ten different sets of legal counsel and some sixteen tribes and/or groups of Indians. Said petitions related to the Treaty of Greenville of 1795 (7 Stat. 49). Said Treaty was not joined in by the Seneca-Cayuga or Six Nations, although it appears that "Reyntueco, (of the Six Nations, living at Sandusky,)" assented thereto by affixing his mark. The Indian Claims Commission exhaustively considered the matter in its opinion of September 19, 1973 (see pages 48a-49a and 50a-51a of appendices to petitioner's respective petitions). The Commission concluded:

> "For all of these reasons, we believe that despite the differences in format between the handwritten and printed versions of the treaty, Reyntueco 'of the Six Nations, living at Sandusky' signed the treaty, along with those other Sandusky Indians who signed immediately before him, as one of the 'Delawares of Sandusky.' We further continue to believe, for the reasons stated above, that the plaintiffs' predecessors were not signatories to the 1795 Greenville Treaty."

There have been many changes and regroupings of Indian tribes and groups. Proof of such is often difficult, and the petitioner has not carried the burden necessary in this case. In any event the Seneca-Cayuga and Six Nations were indigenous to New York State localities. Except for raids and sorties as far west as Minnesota in search of beaver pelts, they had no independent presence or proper claim to land areas essentially held, used and owned, in both the aboriginal and modern sense, by midwestern Indian tribes.

As the Court can see, the case at bar is essentially a dispute between Indian tribes or groups. It is not a dispute between the United States or the U.S. Department of Justice and Indians. It arises under the Indian Claims Commission Act of 1946, and relates to claims more than a century and a half old. Resolution of the

same should not be further delayed by pointless appeals and petitions.

Respectfully submitted,

ROBERT C. BELL, JR.
528 Main Street
New Canaan, Conn. 06840

Attorney for
Hannahville Indian Community,
Forest County Potawatomi Community,
Potawatomi Indians of Indiana and Michigan Incorporated.

February 7, 1976